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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2008-230

13 **MICKEAL MOULDEN**
8702 Sky Rim Drive
14 Lakeside, California 92040

DEFAULT DECISION
AND ORDER

15 Registered Nurse License No. RN528688

[Gov. Code, §11520]

16 Respondent.

17
18 **FINDINGS OF FACT**

19 1. On or about January 24, 2008, Complainant Ruth Ann Terry, M.P.H.,
20 R.N., in her official capacity as the Executive Officer of the Board of Registered Nursing
21 ("Board"), Department of Consumer Affairs, filed Accusation No. 2008-230 against
22 Mickeal Moulden ("Respondent") before the Board.

23 2. On or about December 27, 1996, the Board issued Registered Nurse
24 License No. RN528688 ("license") to Respondent. The license expired on September 30, 1998,

25 3. On or about February 1, 2008, Araceli Mercado, an employee of the
26 Department of Justice, served by Certified and First Class Mail a copy of the Accusation
27 No. 2008-230, Statement to Respondent, Notice of Defense, Request for Discovery, and
28 Government Code sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record

1 with the Board, which was and is 8702 Sky Rim Drive, Lakeside, California 92040. A copy of
2 the Accusation is attached as Exhibit A, and is incorporated herein by reference.

3 4. Service of the Accusation was effective as a matter of law under the
4 provisions of Government Code section 11505, subdivision (c).

5 5. On or about January 11, 2008, the aforementioned documents were
6 returned by the U.S. Postal Service marked "Attempted - Not Known ."

7 6. Business and Professions Code section 118 states, in pertinent part:

8 (b) The suspension, expiration, or forfeiture by
9 operation of law of a license issued by a board in the department,
10 or its suspension, forfeiture, or cancellation by order of the board
11 or by order of a court of law, or its surrender without the written
12 consent of the board, shall not, during any period in which it may
13 be renewed, restored, reissued, or reinstated, deprive the board of
14 its authority to institute or continue a disciplinary proceeding
15 against the licensee upon any ground provided by law or to enter an
16 order suspending or revoking the license or otherwise taking
17 disciplinary action against the license on any such ground.

14 7. Government Code section 11506 states, in pertinent part:

15 (c) The respondent shall be entitled to a hearing on the
16 merits if the respondent files a notice of defense, and the notice
17 shall be deemed a specific denial of all parts of the accusation not
18 expressly admitted. Failure to file a notice of defense shall
19 constitute a waiver of respondent's right to a hearing, but the
20 agency in its discretion may nevertheless grant a hearing.

19 8. Respondent failed to file a Notice of Defense within 15 days after service
20 upon him of the Accusation, and therefore waived his right to a hearing on the merits of
21 Accusation No. 2008-230.

22 9. California Government Code section 11520 states, in pertinent part:

23 (a) If the respondent either fails to file a notice of
24 defense or to appear at the hearing, the agency may take action
25 based upon the respondent's express admissions or upon other
26 evidence and affidavits may be used as evidence without any notice
27 to respondent.

26 10. Pursuant to its authority under Government Code section 11520, the Board
27 finds Respondent is in default. The Board will take action without further hearing and, based on
28 the evidence on file herein, finds that the allegations in Accusation No. 2008-230 are true.

11. The total cost for investigation and enforcement in connection with the Accusation are \$367.75 as of March 6, 2008.

DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Mickeal Moulden has subjected his Registered Nurse License No. RN528688 to discipline.

2. A copy of the Accusation is attached.

3. The agency has jurisdiction to adjudicate this case by default.

4. The Board of Registered Nursing is authorized to revoke Respondent's Registered Nurse License based upon the following violations alleged in the Accusation:

a. The Board is authorized to revoke Respondent's Registered Nurse License based upon Business and Professions Code section 2761, subdivision (a)(4), unprofessional conduct, in that Respondent's Texas Registered Nurse License Number 694987 was disciplined by the Texas State Board of Nurse Examiners ("Texas Board").

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III

ORDER

IT IS SO ORDERED that Registered Nurse License No. RN528688 heretofore issued to Respondent is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on June 16, 2008.

It is so ORDERED May 16, 2008

LaTranene W Tate

FOR THE BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS

Attachment:

Exhibit A: Accusation No.2008-230
Exhibit B: Costs of Suit

10429145.wpd

DOJ docket number:SA2007102876

Exhibit A
Accusation No. 2008-230
and Related Documents

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Attorneys for Complainant

**BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. 2008-230

MICKEAL LOUIS MOULDEN

8702 Sky Rim Drive
Lakeside, California 92040

A C C U S A T I O N

Registered Nurse License No. RN528688

Respondent.

Ruth Ann Terry, M.P.H., R.N. ("Complainant") alleges:

PARTIES

1. Complainant brings this Accusation solely in her official capacity as the Executive Officer of the Board of Registered Nursing ("Board"), Department of Consumer Affairs.

License History

2. On or about December 27, 1996, the Board issued Registered Nurse License Number RN 528688 ("license") to Mickleal Louis Moulden ("Respondent"). The license expired on September 30, 1998, and has not been renewed.

STATUTORY PROVISIONS

3. Section 2750 of the Business and Professions ("Code") provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a

temporary or an inactive license, for any reason provided in Article 3 (commencing with Code section 2750) of the Nursing Practice Act.

4. Code section 2764, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license.

5. Code section 118, subdivision (b), provides that the suspension, expiration, surrender, or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

6. Code section 2761 states, in pertinent part:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct, which includes, but is not limited to, the following:

(4) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action against a health care professional license or certificate by another state or territory of the United States, by any other government agency, or by another California health care professional licensing board. A certified copy of the decision or judgment shall be conclusive evidence of that action.

COST RECOVERY

7. Code section 125.3 provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

CAUSE FOR DISCIPLINE

(Out-of-State Discipline)

8. Respondent is subject to disciplinary action under Code section 2761, subdivision (a)(4), on the grounds of unprofessional conduct, in that Respondent was disciplined by the Texas State Board of Nurse Examiners ("Texas Board"). Pursuant to the Texas Board's Findings of Fact, Conclusions of Law, and Order, in the case entitled, *In the Matter of Registered*

1 Nurse License Numbe 694987 issued to Mickeal Louis Moulden, effective July 19, 2006, the
2 Texas Board accepted the voluntary surrender of Respondent's Registered Nurse License
3 No. 649987. A copy of that Order is attached as **Exhibit A**, and is incorporated herein.

4 **PRAYER**

5 WHEREFORE, Complainant requests that a hearing be held on the matters herein
6 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

- 7 1. Revoking or suspending Registered Nurse License Number RN528688,
8 issued to Mickeal Louis Moulden;
- 9 2. Ordering Mickeal Louis Moulden to pay the Board the reasonable costs of
10 the investigation and enforcement of this case, pursuant to Code section 125.3; and,
- 11 3. Taking such other and further action as deemed necessary and proper.
- 12

13 DATED: 1/24/08

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15 

16 RUTH ANN TERRY, M.P.H., R.N.
17 Executive Officer
18 Board of Registered Nursing
19 Department of Consumer Affairs
20 State of California
21 Complainant
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EXHIBIT A

**Before the Board of Nurse Examiners for the State of Texas
Order of the Board**

BEFORE THE BOARD OF NURSE EXAMINERS
FOR THE STATE OF TEXAS

In the Matter of Registered Nurse §
License Number 649987 §
issued to MICKEAL LOUIS MOULDEN §

ORDER OF THE BOARD

On this day, the Board of Nurse Examiners for the State of Texas, hereinafter referred to as the Board, accepted the voluntary surrender of Registered Nurse License Number 649987, issued to MICKEAL LOUIS MOULDEN, hereinafter referred to as Respondent. This action was taken in accordance with Section 301.453(c), Texas Occupations Code.

Respondent waived notice and hearing.

The Board makes the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. Respondent is currently licensed to practice professional nursing in the State of Texas.
2. Respondent waived informal conference, notice and hearing.
3. Respondent received a Baccalaureate Degree in Nursing from Pittsburg State University, Pittsburg, Kansas, on May 1, 1980. Respondent also received a Master of Arts Degree in Human Resource Management from National University, San Diego, California, on February 1, 1998. Respondent originally became licensed to practice professional nursing in the State of Texas on April 2, 1998.

4. Respondent's professional nursing employment history includes:

August 1980 to January 1997

Unit Nurse/ICU Nurse
US Navy Nurse Corps
San Diego, California

January 1997 to January 1998

Staff Nurse
MedSource Professional Personnel
San Diego, California

649987:109

I certify this to be a true copy of the
records on file with the Board of Nurse
Examiners for the State of Texas.
Date: 08-15-07

Signed: Cynthia L. LoCaster

H5

Respondent's professional nursing employment history continued:

February 1998 to Present

**Agency Nurse
Medical Staffing Network, Inc.
Fort Worth, Texas**

5. Formal Charges were filed on July 13, 2006. A copy of the Formal Charges is attached and incorporated by reference as part of this Order.
6. Formal Charges were faxed and mailed to Respondent on July 13, 2006.
7. On July 19, 2006, Respondent submitted a notarized statement to the Board voluntarily surrendering the right to practice professional nursing in Texas. A copy of this statement is attached and incorporated herein.

CONCLUSIONS OF LAW

1. Pursuant to Texas Occupations Code, Sections 301.451-301.555, the Board has jurisdiction over this matter.
2. Notice was served in accordance with law.
3. The evidence received is sufficient to prove a violation of Section 301.452(b)(10), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.12(6)(C),(D)&(E).
4. Under Section 301.453(c), Texas Occupations Code, the Board has the authority to accept the voluntary surrender of a license.
5. Under Section 301.453(d), Texas Occupations Code, the Board may impose conditions for reinstatement of licensure.
6. Any subsequent reinstatement of this license will be controlled by Section 301.452 (b), Texas Occupations Code, and 22 TAC §§213.26-.29, and any amendments thereof in effect at the time of the reinstatement.

ORDER

NOW, THEREFORE, IT IS ORDERED that the voluntary surrender of Registered Nurse License Number 649987, heretofore issued to MICKEAL LOUIS MOULDEN, to practice professional nursing in the State of Texas, is accepted by the Executive Director on behalf of the Board of Nurse Examiners. In connection with this acceptance, the Board imposes the following conditions:

1. RESPONDENT SHALL NOT practice professional nursing, use the title of Registered Nurse or the abbreviation "RN" or wear any insignia identifying himself as a registered nurse or use any designation which, directly or indirectly, would lead any person to believe that RESPONDENT is a registered nurse during the period in which the license is surrendered.
2. Upon petitioning for reinstatement, RESPONDENT SHALL satisfy all then existing requirements for relicensure.
3. RESPONDENT SHALL NOT petition for reinstatement of licensure until: one (1) year has elapsed from the date of this Order

IT IS FURTHER AGREED and ORDERED that this Order SHALL be applicable to Respondent's multistate licensure privilege, if any, to practice professional nursing in compact states.

Effective this 19th day of July, 2006.

BOARD OF NURSE EXAMINERS
FOR THE STATE OF TEXAS

By:



Katherine A. Thomas, MN, RN
Executive Director on behalf
of said Board

In the Matter of Permanent License	§	BEFORE THE BOARD
Registered Nurse Number 649987, Issued to	§	OF NURSE EXAMINERS
MICKEAL LOUIS MOULDEN, Respondent	§	FOR THE STATE OF TEXAS

FORMAL CHARGES

This is a disciplinary proceeding under Section 301.452(b), Texas Occupations Code. Respondent, MICKEAL LOUIS MOULDEN, is a Registered Nurse holding license number 649987, which is in current status at the time of this pleading.

Written notice of the facts and conduct alleged to warrant adverse licensure action was sent to Respondent at Respondent's address of record and Respondent was given opportunity to show compliance with all requirements of the law for retention of the license prior to commencement of this proceeding.

CHARGE I.

On or about April 19, 2006, while employed with Medical Staffing Network Staffing and on assignment at Baylor All Saints Medical Center, Fort Worth, Texas, Respondent violated professional boundaries in that he participated in sexual inappropriateness and contact, when he fondled and stroked Patient H.M.'s genitals. Furthermore, Respondent caused emotional and sexual abuse in that he made Patient H.M. submit and become prone to sexual molestation when he told Patient H.M. that he was manipulating Patient H.M.'s catheter at the same time Respondent became sexually aroused. Respondent's conduct was likely to injure and cause emotional harm to Patient H.M.

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(10), Texas Occupations Code, and is a violation of 22 TEX. ADMIN. CODE §217.12(6)(C),(D)&(E).

NOTICE IS GIVEN that staff will present evidence in support of the recommended disposition of revocation of Respondent's license to practice nursing in the State of Texas pursuant to the Board's rules, 22 TEX. ADMIN. CODE §§ 213.27 - 213.33. Additionally, staff will seek to impose on Respondent the administrative costs of the proceeding pursuant to § 301.461, TEX. OCC. CODE ANN. The cost of proceedings shall include, but is not limited to, the cost paid by the board to the State Office of Administrative Hearings and the Office of the Attorney General or other Board counsel for legal and investigative services, the cost of a court reporter and witnesses, reproduction of records, board staff time, travel, and expenses. These shall be in an amount of at least one thousand two hundred dollars (\$1200.00).

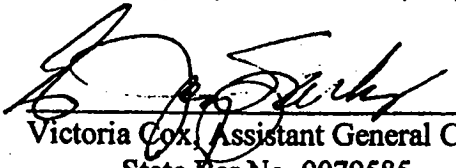
NOTICE IS GIVEN that all statutes and rules cited in these Charges are incorporated as part of this pleading and can be found at the Board's website, www.bne.state.tx.us.

NOTICE IS GIVEN that to the extent applicable, based on the Formal Charges, the Board will rely on Adopted Disciplinary Sanction Policies for Sexual Misconduct which can be found at the Board's website, www.bne.state.tx.us.

Filed this 13th day of July, 2006.

**BOARD OF NURSE EXAMINERS
FOR THE STATE OF TEXAS**

James W. Johnston, General Counsel
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July 18, 2006
July 13, 2006

MICKEAL LOUIS MOULDEN
 909 Fannin St., Suite 1400
 Houston, Texas 77010-1006
 Texas RN License #649987

649987

*1507 Meadow Way
 Mansfield TX 76063*

Dear Board of Nurse Examiners:

I no longer desire to be licensed as a professional nurse. Accordingly, I voluntarily surrender my license to practice in Texas. I consent to the entry of an Order which outlines requirements for reinstatement of my license. I understand that I will be required to comply with the Board's Rules and Regulations in effect at the time I submit any petition for reinstatement.

Signature *Michael L Moulden*

Date *07/18/2006*

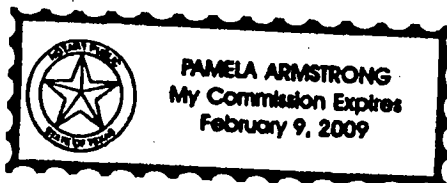
Texas RN License Number *649987*

The State of Texas

Before me, the undersigned authority, on this date personally appeared MICKEAL LOUIS MOULDEN who, being duly sworn by me, stated that he executed the above for the purpose therein contained and that he understood same.

Sworn to before me the *18* day of *July*, 20*06*.

SEAL



Pamela Armstrong

Notary Public in and for the State of *Texas*

